

**AGENDA:** December 7, 2004

**7.3**

**CATEGORY:** New Business

**DEPT.:** City Attorney

**TITLE:** Shoreline Amphitheatre Ticket  
Distribution Policy

### **RECOMMENDATION**

Review the alternative approaches to the current ticket distribution policy and select one for adoption.

### **FISCAL IMPACT**

There is no significant fiscal impact associated with any of the alternatives. If Alternative 2(a) is selected, the City would realize revenue from the sale of the tickets. If Alternative 2(b) is selected, the revenue would be greater, depending on the shows/location of the 300 tickets. The City would experience costs for the sale of tickets; however, the costs are not expected to exceed the revenues.

### **BACKGROUND AND ANALYSIS**

At its June 8, 2004 meeting, the City Council referred the Shoreline Amphitheatre Ticket Distribution Policy to the Council Procedures Committee (CPC) for study. On August 16 and October 29, 2004, the CPC met and considered various alternatives, ultimately directing staff to forward to the Council several potential policy changes for discussion and possible action.

Importantly, the CPC concluded that there is not a conflict of interest created by the Amphitheatre lease and current City policy relative to use of tickets by Councilmembers, commissioners, staff and volunteers. The CPC acknowledged that any conflict may be one of perception since the current policy is consistent with State law and similar to policies utilized by other public agencies.

### **ALTERNATIVE APPROACHES**

After its study on August 16, the CPC directed staff to return with alternatives, including: (1) maintenance of the status quo; (2) the sale of tickets with proceeds deposited into the General Fund; and (3) a new approach similar to the Concord Pavilion policy, as well as variations of same. A copy of the CPC staff report from October 29, 2004 is attached (Attachment 3).

When the CPC met on October 29, with one member absent (Mary Lou Zoglin), the CPC, by consensus, referred the following alternatives to the Council without recommendation. The draft alternatives, with companion adopting resolution, are attached (Attachment 4).

1. Status Quo – With Limitation on Use

This alternative would continue the current ticket distribution policies pursuant to City Council Policy A-15 (14 tickets for each performance) and City Administrative Instruction 8-1 (distribution of 6 premium tickets for each performance and 300 additional tickets available during each concert season). Copies of both policies are attached (Attachments 1 and 2). The CPC, however, added a limitation on the use of tickets. The limitation provides that any ticket not used by the Councilmember or their immediate family must be placed in the pool with the other tickets for distribution pursuant to City Administrative Instruction 8-1. The policy, as drafted, utilizes the Political Reform Act's definition of immediate family ("immediate family" means the spouse and dependent children; Section 82029).

Draft Policy: A proposed policy which would implement this alternative is included in Attachment 4.

2. Sale of Tickets Received by the City with Proceeds Deposited into the General Fund

The CPC advanced two alternatives under this scenario.

2a. Sale of Premium Tickets Only

This alternative would provide that the 20 premium tickets received for each show would be sold to the public with proceeds deposited into the General Fund. This alternative was advanced on the theory that there is no conflict issue, perceived or otherwise, with the tickets which are pooled. Under this approach, the 300 at-large tickets and any premium tickets not sold would be distributed pursuant to the current policy. An additional limitation has been drafted into the policy which would exclude employees with decision-making authority over Shoreline Amphitheatre from participating in the distribution.

There are two key considerations in any discussion of selling the tickets. First, the City knows in advance that we will receive these 20 tickets and knows where the seats are located; however, the tickets arrive at unscheduled intervals before the performance. Secondly, with respect to the 300 "tickets" received over the course of the concert season, the City does not know in advance:

- The shows for which tickets will be provided.
- The price of the tickets.
- The location of the tickets.
- The number of tickets per show.

It may be possible to sell the tickets at the Center for the Performing Arts box office by publicizing that whatever tickets are available will be for sale on a first-come, first-served basis and advertising their arrival on the City's web site.

2b. Sale of All Tickets

This proposal emphasizes that since the CPC found there was no actual conflict of interest in the use of tickets under the current policies, if there is any perception, it could apply to all tickets.

This alternative would have the same attributes of Alternative 2a; however, it would have the administrative issues mentioned with respect to the 300 additional tickets.

Draft Policy: If either 2(a) or 2(b) is selected, Policy and Procedure A-15 will be repealed and Administrative Instruction 8-1 will be amended by the City Manager, consistent with Council direction.

### 3. Admittance Policy

This alternative grew out of a study by the CPC of the policy used by city councilmembers for attending events at the Concord Pavilion. As drafted, it is more tailored than what we understand the Concord Pavilion policy to be, and the purchase of tickets by a Councilmember under this policy would contribute revenue to the General Fund. The main components of the policy are as follows:

- Councilmembers would receive an identification badge that would allow admission to all shows, but would not provide a seat.
- Councilmembers would be allowed to separately purchase up to two (2) seats for any show from the premium tickets received by the City for their use, or that of their immediate family. The price would be market value. The draft policy expressly prohibits Councilmembers from accepting a "free seat" from the promoter. Proceeds from the purchase of these tickets would be deposited in the General Fund.
- Councilmembers could preselect up to two (2) tickets for six (6) shows per season from the premium tickets received by the City, at no cost to the Councilmember. (Note: The number "two" and "six" used above were inserted for discussion purposes as they were not designated by the CPC.)
- The balance of the premium seats not purchased or used and the 300 remaining tickets would be pooled and administered pursuant to the current policy.

Draft Policy: A proposed policy which would implement this alternative is included in Attachment 4.

### Other Possible Approaches

The alternatives selected by the CPC, and discussed above, provide Council with a range of alternatives tailored by the CPC. The Council can review the staff report provided to the CPC for its October 29, 2004 meeting which discusses additional alternatives in some detail.

### CONCLUSION

The CPC found that the current policy is consistent with the Fair Political Practices Commission (FPPC) Regulation 18944.1. This regulation was developed in recognition of the fact that a contract for the use of public property where events are held can retain, to the public agency, certain rights (such as tickets) and, therefore, the tickets or the value of the

tickets would not be considered gifts to the agency or to individuals who receive the tickets pursuant to an official agency policy.

The policy also recognizes that at any performance at any venue, public or private, hundreds of promotional or otherwise free tickets are made available through a variety of means, and the provision of tickets to the agency or individuals of the agency is often one small part of that overall promotional policy. The CPC recognized that in the past season or two, the Amphitheatre has had difficulty in filling seats and, for many events, has "papered the house." This technique is used when the promoter of an event actually hands out free tickets to different groups around town to get people to fill seats. This has the added advantage of placing somebody at the Amphitheatre to spend money on food and novelties who may not otherwise have attended the event. In the past season, blocks of tickets were offered to the City, the Chamber of Commerce and local businesses capable of distributing a significant number of tickets in a short time to their employees or customers.

### **ALTERNATIVES**

1. Status quo with no changes to existing policy.
2. Direct staff to modify any of the alternatives discussed in the report.
3. Refer the matter back to the CPC with directions.

### **PUBLIC NOTICING** – Agenda posting.

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- Attachments:
1. City Council Policy A-15
  2. Administrative Instruction 8-1
  3. October 29, 2004 CPC Staff Report
  4. Draft Alternatives